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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/088,144

06/11/2002

Wolfgang Reeb

1997

1019

7590

07/22/2004

Striker Striker & Stenby
103 East Neck Road
Huntington, NY 11743

EXAMINER

EASTHOM, KARL D

ART UNIT

PAPER NUMBER

2832

DATE MAILED: 07/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/088,144

Applicant(s)

REEB ET AL.

Examiner

Karl D Easthom

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. Regarding the remarks indicating an IDS 2/21/2002 filed, no such IDS appears in the EDAN imaged file. However, the PALM system indicates such an IDS was filed around 6/10/2002, and same has been requested to be imaged. Applicant may wish to send a duplicate copy to ensure entry.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 13-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear how the housing has at least one detent projection (54) since there is no clear indication of how the housing is structurally related to the detent projection, where the line of demarcation between 54 and 51 is not clear in Fig. 1. The detent tothing is not clear for similar reasons.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 13-18 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Haydon et al. Haydon discloses the claimed invention at Fig. 1 with a housing 15, potentiometer 17, motor 32, driven wheel 24, the driven wheel is 24, potentiometer housing 16, and the detent tooth of the housing is any number of elements such as 55, or 31 the element labeled gear on shaft 26. The housing 15 has detent tooth 28a or 28b which forms a detent tothing with 29 or the gear attached thereto. Or the housing 15

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“has” detent tooth 47 which forms a detent toothing with detent projection, forming a detent toothing. That is “has” is construed broadly where the elements are all attached indirectly. In claim 14, the detent tooth 48 is indirectly on the plate 13 which is in part, considered part of the housing 16, or is on the circumference of housing of 16. Or, a circumference is the opening in the housing 16 or end plate 13 upon which is the detent tooth 48; i.e. the inner circumference whence shaft 19 projects. In claim 15, potentiometer housing 15 is on housing 15. In claims 16-17, the housing is rotatable as disclosed at cols. 4-5 lines 45-55, with hole 54 in the vicinity of any of the elements noted where the term is broad. In claim 18, the electrical connections are “at least partially similar to a serpentine” where any wires implicit in the disclosure meet the claim. In claims 21-23, all parts can be installed or inserted in an inward direction.

6. Claim 13 is rejected under 35 U.S.C. 102(b) as being anticipated by Brown. Brown discloses the claimed invention at Fig. 1 with housing 12, motor 18, potentiometer 45 or 51 and shaft 27, driven wheel 32, 33, detent projection 54 and detent tooth 50, where the potentiometer housing 51 “has” the detent tooth since it is connected to same.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hayden in view of Brown. Hayden discloses the claimed invention except the leaf spring. Brown discloses a helical spring 14 for damping axial motion of the motor rotor shaft, and it

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would have been obvious to employ any equivalent means of damping where helical and leaf springs are species of a class well known to perform in an equivalent manner.

9. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hayden in view of Pathman. Hayden discloses the claimed invention except the worm gear.

Pathman discloses a shaft 30 having worms 28, 38 on both ends meshing with a driven wheel 40, so that it would have been obvious to modify a shaft of Hayden to have a worm gear to replace another type of gear since both disclosures are concerned with gearing between a motor and potentiometer.

10. Applicant's arguments filed 6/7/4 have been fully considered but they are not fully persuasive. Applicant argues that the patent to Haydon et al neither shows nor suggests the potentiometer housing 16 having no detent tooth. This is not correct. A detent tooth is the tooth on the gear noted. The toothing is as noted. The housing "has" the gear since "has" in this sense means connected, and applicant does not clearly depict how his housing has a detent projection, as noted above. The term "detent", according to dictionary definitions indicates a pivoted engagement with a gear or ratchet. The gears noted meet the term, since pivot means to rotate. No specific argument for Brown was made.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl D Easthom whose telephone number is (571) 272-1989. The examiner can normally be reached on M-Th, 5:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on (571) 272-1990. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Karl D Easthom
Primary Examiner
Art Unit 2832

KDE